

RECOVERY ZONE BONDS – NEW TOOLS FOR ECONOMIC DEVELOPMENT**By: Andrea E. Montbriand, JD, LEED**

The American Reinvestment and Recovery Act contained some new tools for local governments to stimulate economic development, including the creation of Recovery Zone Economic Development Bonds (RZEDBs) and a new category of private activity bonds called Recovery Zone Facility Bonds (RZFBs). The Internal Revenue Service allocated the \$10 billion national RZEDB limitation and the \$15 billion national RZFB limitation among counties and large municipalities within each state in accordance with their relative declines in employment in 2008. In Michigan, Oakland, Wayne, Macomb, Kent, Genesee, and Washtenaw counties received the bulk of the RZEDB and RZFB allocations along with a handful of larger cities (Detroit, Flint, Warren, Lansing, Grand Rapids, Ann Arbor, and Sterling Heights). Recovery zones are designated by the counties (or cities if a direct allocation was made by the IRS), which in turn, are able to sub-allocate their bond allowances to local municipalities. A recovery zone can be any area having significant poverty, unemployment, rate of home foreclosures or general distress. To date, Oakland, Wayne, Washtenaw, and Kent Counties have recently passed resolutions designating the entire county as a recovery zone.

RZEDBs may be used by local governments for qualified economic development purposes within a recovery zone, including capital expenditures paid or incurred for property in a recovery zone, expenditures for public infrastructure and construction of public facilities and expenditures for job training and educational programs. RZEDBs are taxable bonds, however, the federal government reimburses the Issuer for 45% of the interest paid, making the true cost of the interest paid equal to or lower than that paid on tax-exempt bonds.

RZFBs are a new category of tax exempt bonds available to fund private activity. Proceeds of RZFBs may be used to finance depreciable property (any property with a useful life greater than one year such as buildings, equipment, etc.) within a recovery zone if that property is: (i) constructed, reconstructed, renovated or acquired by purchase by the taxpayer after the date the recovery zone was designated, (ii) the property is originally used in the recovery zone, and (iii) substantially all of the use of the property is in a recovery zone and is in the active conduct of a qualified business. In general, any trade or business constitutes a qualified business except for businesses operating golf courses, country clubs, massage parlors, hot tub and suntan facilities, racetrack or other gambling facilities and stores the principal business of which is the sale of alcoholic beverages for consumption off premises.

In addition to the requirement that a project be located within a recovery zone, borrowers must also show that their project is creditworthy such that it will create a market for the sale of the bonds. Each county and city has specific application procedures and criteria that borrowers have to meet to receive funding through an RZFB issuance. These bonds offer unique financing opportunities for local businesses, but will only be available through December 31, 2010.

In addition to Recovery Zone Bonds, another type of federally subsidized bond – Build America Bonds, are available to state and local governments for capital expenditures. Many municipalities maintain surplus land and buildings. These properties can offer unique

opportunities for local governments to work together with private companies in a redevelopment effort, and Build America Bonds may be a useful financing tool for such projects. There is no allocation cap or recovery zone requirement for these bonds, however, Build America Bonds may only be issued until December 31, 2011.

We work with clients to help them obtain the financing and incentives they need to complete their projects. If you have questions regarding Recovery Zone Bonds or other state and local stimulus programs that may be helpful to your organization, contact Paul Bohn pbohn@fb-firm.com (248) 380-0000 ext 243, or Andrea Montbriand amontbriand@fb-firm.com (248) 380-0000 ext 242.